UNITED
NATIONS

E

Economic and Social
Council

Distr.
GENERAL

E/CN.4/1994/SR.30
23 February 1994

Original: ENGLISH

COMMISSION ON HUMAN RIGHTS

Fiftieth session

SUMMARY RECORD OF THE 30th MEETING

Held at the Palais des Nations, Geneva,
on Friday, 18 February 1994, at 10 a.m.

Chairman: Mr. van WULFFTEN PALTHE (Netherlands)

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The meeting was called to order at 10.20 a.m.

STATEMENT BY THE DEPUTY MINISTER OF JUSTICE OF VIET NAM

1. The CHAIRMAN invited the Deputy Minister of Justice of Viet Nam to address the Commission.

2. Mr. NGUYEN NGOC HIEN (Viet Nam) recalled that his Government had played an active part in the World Conference on Human Rights and had concurred in its final Declaration. It had sent him to Geneva as part and parcel of its resolve to reintegrate Viet Nam into the world community after long decades of war. He looked upon his visit as an opportunity to help the members of the Commission to a better understanding of contemporary Viet Nam, a country undergoing a process of all-round reform and renewal known as DOI MOI.

3. As emphasized by his delegation to the Vienna Conference, far from being alien to his nation, the struggle for human rights represented something it held dear. In line with that reality, Viet Nam's DOI MOI was driven by the awareness that the human person must be both the ultimate goal and the actor of the entire endeavour, as specifically spelt out in its strategy for socio-economic development to the year 2000.

4. That awareness was reflected in the new Constitution which made explicit reference, in its article 50, to respect for the rights of the person and contained such specific provisions as the right to freedom of enterprise (art. 57) and the right to information (art. 69). The right to be presumed innocent and exempt from punishment until a sentence adopted by a court came into effect had been written into the law for the first time in 1988 in the form of article 10 of the Code of Criminal Procedure.

5. His Government realized that DOI MOI should be a process of constant readjustment and had recently become aware of the need to address adequately potentially counter-productive social side-effects of the country's transition to a market economy such as unemployment, inadequate public health and education, income polarization and the need to protect the groups most affected by that transition. Specific measures were being to be adopted such as increasing the budget allocations for those needs, encouraging international assistance to the poorest, and granting high priority to the fight against corruption, with full awareness of the fact that economic growth could not be sustainable without basic social equity.

6. In 1993, Viet Nam's economy had grown at the rate of 7.25 per cent and inflation had been reduced to 5.2 per cent, figures that were the result of policies that had earned broad popular support and participation. Economic DOI MOI could, in fact, be described as democratization of socio-economic life and releasing the potential of every Vietnamese.

7. An objective reality specific to Viet Nam's history was that it had to make up for decades during which the imperatives of war and resistance had prevented it from doing as much as his Government would have wished to lay the necessary foundations for the promotion and implementation of human rights, namely, establishment of the rule of law. Since the launching of DOI MOI in the mid-1980s, building the rule of law had been made the centre-piece of his

country's political reform. Appropriate legislation, law enforcement by the State, respect for the law, and effective exercise by the citizens of their rights under the Constitution and the law, would eventually ensure better enjoyment of human rights by all.

8. The Ministry of Justice had therefore been engaged for some years on a vast systematic legislative programme which included the revision of existing laws and the drafting of new laws to meet the new realities and strengthen further the democratic rights of the citizen. Since 1985, 32 codes, laws and legal decrees had been adopted. In the course of 1994, his Ministry hoped to finalize and adopt as many as 11 laws and 10 legal decrees, most notably the labour law, the revised criminal code and the civil code. In undertaking that effort, his Ministry bore constantly in mind the growing importance of international law and the need to harmonize the country's domestic law as much as possible with international law.

9. His Government realized that, while legislation was the very premise of the rule of law, it was not in itself sufficient but must go hand in hand with consistent nationwide law enforcement. It was conscious of the need to devise mechanisms and monitoring processes that would ensure effective and proper implementation of the law. In that respect, it welcomed the increasingly active role of the National Assembly not only in the consideration and adoption of laws and amendments but also in supervising their implementation by law-enforcement bodies. In that connection, he stressed the importance of promoting popular awareness of the Constitution and the rule of law and popular participation in the debate on all major bills, which were usually published in the press well before their consideration by the National Assembly.

10. It was heartening to note that, in recent years, that practice had elicited an increasingly wide response from the public. It should also be noted that the Vietnamese media had played an increasingly active and constructive role in identifying and criticizing abuses of power and other acts detrimental to the rule of law by public officials.

11. His Government had pursued a policy aimed at uniting all Vietnamese at home and abroad in making their native land a prosperous, equitable and civilized country. That policy, supported by the successes of DOI MOI, had resulted in ever-increasing numbers of family visits, business ventures and other interactions in Viet Nam by overseas Vietnamese. Only a small, but vocal, minority of Vietnamese émigrés continued to advocate politics and tactics of ideological antagonism and division, particularly along religious lines. Respect for the freedom of religion in Viet Nam was an integral part of his Government's policy, which aimed at embracing Vietnamese from all walks of life and of all religious creeds, regardless of their past.

12. Understanding that commitment to human rights called for adherence to international human rights conventions, Viet Nam had ratified or acceded to eight such instruments since 1980, several of which had been published in the Vietnamese language. Having promptly ratified the Convention on the Rights of the Child, it had launched a national plan of action for children to the year 2000.

13. One of the characteristic features of DOI MOI was recognition of both the growing international concern for human rights and the need to undertake a fruitful inter-State dialogue and cooperation on human rights on the basis of the principles of international law, mutual respect and equality and awareness of the complexity and sensitivity of human rights issues. In line with that recognition, his Government had, since 1992, received a number of visiting missions with a view to promoting mutual understanding with regard to human rights concerns. They had included the Minister of State for Human Rights and Humanitarian Affairs of the United Kingdom, the Executive Director of Asia Watch, and the Human Rights Coordinator of the German Ministry of Foreign Affairs.

14. In the near future, it would receive a delegation from the Commission's Working Group on Arbitrary Detention. At the invitation of the British Foreign Office, his Government had sent a delegation to visit the United Kingdom. That delegation had taken the opportunity to visit the International Secretariat and British Section of Amnesty International to initiate the same continuing dialogue that it had begun with Asia Watch in Viet Nam.

15. In short, Viet Nam's DOI MOI did not concern only economic performance and reform; it was also very much the vehicle for a broader promotion of human rights in Viet Nam and enhanced enjoyment of human rights by all Vietnamese. As Viet Nam intensified its links with the outside world, his Government hoped that the international community would provide it with the continued support it required.

QUESTION OF THE VIOLATION OF HUMAN RIGHTS IN THE OCCUPIED ARAB TERRITORIES, INCLUDING PALESTINE (agenda item 4) (continued) (E/CN.4/1994/L.3**, 4 and 5)

Draft resolution on Israeli settlements in the occupied Arab territories (E/CN.4/1994/L.3**)

16. Mr. BOUCAOURIS (Observer for Greece), introducing the draft resolution on behalf of its sponsors, said that its main objective was to reaffirm the applicability of the 1949 Geneva Convention relative to the Protection of Civilian Persons in Time of War (Fourth Geneva Convention) to the Palestinian and other Arab territories occupied by Israel since 1967 and the illegality of the Israeli settlements in the occupied territories. The text followed closely the resolution adopted by the Commission the previous year. He hoped that it could be adopted by consensus.

17. Mr. LEBAKINE (Acting Secretary of the Commission) said that the delegations of Australia and Japan and the observers for Iceland, Liechtenstein, Malta, New Zealand, Norway and Sweden had become sponsors of the draft resolution.

18. Mr. KHOURY (Syrian Arab Republic) drew attention to an error in the Arabic text of the draft resolution. The title, which read "Israeli settlements in the united Arab territories" should read "Israeli settlements in the occupied Arab territories".

19. The CHAIRMAN said that the error in the Arabic text of the draft resolution would be rectified.

20. Mrs. FERRARO (United States of America), speaking in explanation of vote before the voting, said that her Government's position on the Israeli settlements in the occupied territories was well known. It did not believe that it would be productive at that stage to address the issue of the legality of the settlements. The Declaration of Principles on Interim Self-Government Arrangements, signed by the Palestinians and Israel on 13 September 1993, defined the question of the Israeli settlements in the occupied territories as a permanent status issue. It was therefore premature and non-productive to address it in a multilateral forum.

21. At the request of the representative of the United States of America, a vote was taken by roll-call on the draft resolution.

22. Finland, having been drawn by lot by the Chairman, was called upon to vote first.

In favour: Angola, Australia, Austria, Bangladesh, Barbados, Brazil, Bulgaria, Cameroon, Canada, Chile, China, Colombia, Costa Rica, Côte d'Ivoire, Cuba, Cyprus, Ecuador, Finland, France, Gabon, Germany, Hungary, India, Indonesia, Iran (Islamic Republic of), Italy, Japan, Kenya, Lesotho, Malawi, Malaysia, Mauritania, Mexico, Netherlands, Nigeria, Pakistan, Peru, Poland, Republic of Korea, Romania, Russian Federation, Sri Lanka, Sudan, Syrian Arab Republic, Togo, Tunisia, United Kingdom of Great Britain and Northern Ireland, Uruguay, Venezuela.

Against: United States of America.

Abstaining: Libyan Arab Jamahiriya.

23. Draft resolution E/CN.4/1994/L.3** was adopted by 49 votes to 1, with 1 abstention.

Draft resolution on human rights in the occupied Syrian Golan (E/CN.4/1994/L.4)

24. Mr. KHOURY (Syrian Arab Republic), introducing the draft resolution on behalf of its sponsors, said that the human rights situation in the occupied Syrian Golan had not changed. If anything, it had grown even worse as a result of Israel's continuing policy of occupation and the establishment of settlements. The Commission must condemn Israel's continued non-compliance with the resolutions of the Commission, the Security Council and the General Assembly, with the provisions of the Fourth Geneva Convention and with international humanitarian law and international law in general.

25. Thousands of Syrian citizens in the occupied Golan area had been under the yoke of Israeli occupation for over a quarter of a century; another 500,000 were still waiting to be repatriated and to recover their property.

The sponsors hoped that the resolution, which was consistent with the principles upheld by the Commission, would be adopted by consensus.

26. Mrs. FERRARO (United States of America), speaking in explanation of vote before the voting, said that the time had come for the Commission to recognize that a new day had dawned in the Middle East. The signing of the Declaration of Principles by Israel and the Palestine Liberation Organization represented a fundamental change in the region, but draft resolutions E/CN.4/1994/L.4, L.5 and L.6, written in the sterile language of the past, appeared to take no notice of that positive development. She compared the one-sided allegations directed against the State of Israel year after year with the total silence about the actions of the other side. The false picture that painted was unacceptable.

27. A just and lasting peace between Arabs and Israelis had been the overarching goal of the United States for more than two generations. Committed to acting as a full partner and an intermediary in the peace process, and to working with both sides, it could not support a flawed, unbalanced resolution on the Middle East which did little to further that process. Her delegation would thus vote against draft resolutions E/CN.4/1994/L.4, L.5 and L.6.

28. Mr. ZACKHEOS (Cyprus) said that his delegation would vote in favour of draft resolutions E/CN.4/1994/L.4, L.5 and L.6. They were based on a principle that also applied to his own country - namely, the occupation of 37 per cent of its territory and the continued violation of human rights in the occupied portion of Cyprus. At the same time, his delegation wished to express its wholehearted support for the Middle East peace process, for the Palestine Liberation Organization and Israel and for all other parties involved. It hoped that the positive climate thus created and the settlement of regional conflicts elsewhere would have favourable repercussions on the situation in Cyprus.

29. At the request of the representative of the United States of America, a vote was taken by roll-call on draft resolution E/CN.4/1994/L.4.

30. Bulgaria, having been drawn by lot by the Chairman, was called upon to vote first.

In favour: Angola, Bangladesh, Brazil, Chile, China, Colombia, Costa Rica, Cuba, Cyprus, India, Indonesia, Iran (Islamic Republic of), Lesotho, Libyan Arab Jamahiriya, Malaysia, Mauritania, Mexico, Nigeria, Pakistan, Republic of Korea, Sri Lanka, Sudan, Syrian Arab Republic, Tunisia, Venezuela.

Against: United States of America.

Abstaining: Australia, Austria, Barbados, Bulgaria, Cameroon, Canada, Côte d'Ivoire, Ecuador, Finland, France, Gabon, Germany, Hungary, Italy, Japan, Kenya, Malawi, Netherlands, Peru, Poland, Romania, Russian Federation, Togo, United Kingdom of Great Britain and Northern Ireland, Uruguay.

31. Draft resolution E/CN.4/1994/L.4 was adopted by 25 votes to 1, with 25 abstentions.

Draft resolution on the question of the violation of human rights in the occupied Arab territories, including Palestine (E/CN.4/1994/L.5)

32. Mr. SAHLOUL (Sudan), introducing the draft resolution on behalf of its sponsors, said that it was divided into two parts: part A on the deterioration of the human rights situation in the occupied Arab territories and part B on the implementation of the Fourth Geneva Convention in those territories.

33. Unlike the resolution adopted by the General Assembly at its forty-eighth session on that question, the draft resolution before the Commission referred to the positive developments which had recently taken place in the Middle East, namely, the signature of the Declaration of Principles on Interim Self-Government Arrangements by the Palestine Liberation Organization (PLO) and the Govefnment of Israel.

34. The draft resolution omitted several points which had been a source of misunderstanding in the past and it took into account the report submitted by the Special Rapporteur (E/CN.4/1994/14), with particular reference to the continued human rights violations in the territories, even after the signature of the Declaration of Principles. The situation in the occupied Arab territories, including Palestine, did not reflect the political spirit that had prevailed at the moment the Declaration of Principles was signed.

35. Mr. LEBAKINE (Acting Secretary of the Commission) said that the delegation of India had become a sponsor of the draft resolution.

36. At the request of the representative of the United States of America, a vote was taken by roll-call on draft resolution E/CN.4/1994/L.5, part A.

37. The Libyan Arab Jamahiriya, having been drawn by lot by the Chairman, was called upon to vote first.

In favour: Angola, Bangladesh, Brazil, Cameroon, Chile, China, Colombia, Cuba, Cyprus, Gabon, India, Indonesia, Iran (Islamic Republic of), Lesotho, Libyan Arab Jamahiriya, Malaysia, Mauritania, Mexico, Nigeria, Pakistan, Republic of Korea, Sri Lanka, Sudan, Syrian Arab Republic, Tunisia, Venezuela.

Against: Bulgaria, Russian Federation, United States of America.

Abstaining: Australia, Austria, Barbados, Canada, Costa Rica, Côte d'Ivoire, Ecuador, Finland, France, Germany, Hungary, Italy, Japan, Kenya, Malawi, Mauritius, Netherlands, Peru, Poland, Romania, Togo, United Kingdom of Great Britain and Northern Ireland, Uruguay.

38. Draft resolution E/CN.4/1994/L.5, part A, was adopted by 26 votes to 3, with 23 abstentions.

39. At the request of the representative of the United States of America, a vote was taken by roll-call on draft resolution E/CN.4/1994/L.5, part B.

40. Mauritania, having been drawn by lot by the Chairman, was called upon to vote first.

In favour: Angola, Bangladesh, Brazil, Cameroon, Chile, China, Colombia, Cuba, Cyprus, Gabon, India, Indonesia, Iran (Islamic Republic of), Lesotho, Libyan Arab Jamahiriya, Malaysia, Mauritania, Mexico, Nigeria, Pakistan, Republic of Korea, Sri Lanka, Sudan, Syrian Arab Republic, Tunisia, Venezuela.

Against: United States of America.

Abstaining: Australia, Austria, Barbados, Bulgaria, Canada, Costa Rica, Côte d'Ivoire, Ecuador, Finland, France, Germany, Hungary, Italy, Japan, Kenya, Malawi, Mauritius, Netherlands, Peru, Poland, Romania, Russian Federation, Togo, United Kingdom of Great Britain and Northern Ireland, Uruguay.

41. Draft resolution E/CN.4/1994/L.5, part B, was adopted by 26 votes to 1, with 25 abstentions.

42. Mr. MALGINOV (Russian Federation) said that his delegation had voted against draft resolution E/CN.4/1994/L.5 which did not fully reflect the new reality in the region following the signature of the Declaration of Principles on 13 September 1993. Laying all the blame for human rights violations on one side was inaccurate; the Commission must take an objective view of the situation. His delegation had abstained on draft resolution E/CN.4/1994/L.4, because the changes that had been made to the text since the previous year were not sufficient to reflect the changes that had taken place on the ground.

43. Mr. HELLER (Mexico) said that his delegation had voted for draft resolution E/CN.4/1994/L.4 because it upheld some fundamental principles of international law. It would have been preferable, however, if that draft resolution had reflected the major advances made in the Middle East peace process.

44. Mr. MARUYAMA (Japan) said that, while his delegation welcomed the fact that draft resolution E/CN.4/1994/L.5 reflected the recent developments in the Middle East peace process, it had reservations about the eleventh preambular paragraph, operative paragraph 2 of part A and operative paragraph 3 of part B.

45. The language, content and general wording of draft resolution E/CN.4/1994/L.4 lacked overall balance. His delegation had abstained on that draft resolution because it did not facilitate the peace process currently under way.

46. Mr. TARABATABAEE (Islamic Republic of Iran) said that, had it been possible to cast a separate vote on every paragraph of draft resolution E/CN.4/1994/L.5, his delegation would have voted against the tenth preambular paragraph of part A. It would explain its position at a later stage.

47. Mr. KHOURY (Syrian Arab Republic) said that his delegations votes in favour of draft resolution E/CN.4/1994/L.3 and draft resolution E/CN.4/1994/L.5 did not necessarily mean that it either agreed with or opposed the Declaration of Principles on Interim Self-Government Arrangements.

48. Mr. HAFYANA (Libyan Arab Jamahiriya) said that his delegation had abstained on draft resolutions L.3 and L.5, because it did not approve the paragraphs welcoming the Declaration of Principles signed by Israel and the Palestine Liberation Organization (PLO). Any settlements of the Arab-Israel conflict must be global and just; it must impose upon Israel the obligation to implement all United Nations resolutions unconditionally; and it must reaffirm the credibility of the Security Council. The Palestinian leadership must resist pressure to make concessions without obtaining the right to exercise of self-determination. There were more occupied Arab and Palestinian territories than just the Gaza Strip and the Jericho area. Jericho and Gaza were pawns in a game whereby Israel was seeking greater power. The West Bank and Jerusalem were still under Israeli military occupation and were being made to face the creation of settlements, forced annexation and terrorism ... .

49. The CHAIRMAN said that explanations of vote should be brief and must not be a repetition of the general debate.

50. Mr. HAFYANA (Libyan Arab Jamahiriya) said that resolutions welcoming the Declaration of Principles lent legitimacy to the Israeli occupation and settlement policy and were thus not consistent with a just and lasting peace or the relevant United Nations resolutions. Hence his delegation's abstention.

51. Mr. GONZALEZ (Colombia) said that his delegation, which recognized the efforts made by all the parties to the conflict to reach a stable peace in the Middle East, would support any initiative to that end that responded to the aspirations of those concerned. It would have been preferable, however, if the resolutions in question had reflected the new developments in the region somewhat more positively.

52. Mr. Chang Hoon KIM (Republic of Korea) said that his delegation had voted in favour of draft resolutions E/CN.4/1994/L.4 and L.5 because the human rights situation in the occupied Arab territories still required monitoring and action by the Commission. Nevertheless, the language of those resolutions failed to reflect properly the recent developments in the Middle East peace process. His delegation would have liked to see a more balanced wording in certain passages.

53. Mr. DOBREV (Bulgaria) said that his delegation had voted against part A of draft resolution E/CN.4/1994/L.4, because it did not fully reflect the important and positive changes that had taken place in the area.

54. Mr. FASEHUN (Nigeria) said that, although his delegation had voted in favour of draft resolution E/CN.4/1994/L.4, it would have preferred language consistent with the current spirit of the peace process. It was particularly concerned about the wording of operative paragraphs 1, 2 and 4. By the fifty-first session of the Commission, the progress of the peace process would, he hoped, make such a resolution superfluous.

55. Mr. STOKVIS (Netherlands) said that, despite improvements since the previous year in the text of draft resolution E/CN.4/1994/L.5, particularly its part A, further changes should have been made to reflect the peace process more fully, especially in the eleventh preambular paragraph and operative paragraph 2 of part A, and in operative paragraph 3 of part B. Nevertheless, in order to make a constructive contribution to the peace process, his delegation had abstained.

56. The CHAIRMAN said that the Commission had concluded its consideration of and adoption of resolutions on agenda item 4.

THE RIGHT OF PEOPLES TO SELF-DETERMINATION AND ITS APPLICATION TO PEOPLES UNDER COLONIAL OR ALIEN DOMINATION OR FOREIGN OCCUPATION (agenda item 9) (continued) (E/CN.4/1994/L.2, 6, 7 and 9)

Draft resolution on the Middle East peace process (E/CN.4/1994/L.2)

57. Mrs. FERRARO (United States of America), introducing the draft resolution on behalf of its sponsors, which had been joined by the delegations of Angola, Barbados, Brazil, Cameroon, Canada, Côte d'Ivoire, Cyprus, Ecuador, Finland, India, Italy, Kenya, Malawi, Republic of Korea and Tunisia and the observers for Belgium, Czech Republic, Denmark, Greece, Guatemala, Iceland, Ireland, Israel, Jordan, Liechtenstein, Malta, Myanmar, New Zealand, Panama, Philippines, Portugal, Slovakia, Spain and Sweden, said she was pleased that the draft resolution had gathered such wide support. The text, which had been drafted in close cooperation with the delegations of Palestine and Israel, struck a fair balance and should enjoy a broad consensus.

58. Its adoption would enable the Commission to lend support to the Middle East peace process and would mean that, for the first time, the Commission had spoken in a unified voice on the need for peace in the Middle East. The draft resolution encouraged those who rejected violence and acknowledged that the road to peace was also the road to improving human rights throughout the region. There was surely general agreement that the best hope of improving human rights in the region lay in supporting peaceful relations between Arabs and Israelis.

59. Mr. NASSERI (Islamic Republic of Iran) said that the draft resolution dealt with an issue of a political nature that had nothing to do with the subject of agenda item 9. The Commission had not debated the peace process in Palestine and was thus not in a position to take a decision concerning it. The Commission had always avoided political issues in the past and should continue to do so.

60. At the request of the representative of the Syrian Arab Republic, a vote was taken by roll-call.

61. Gabon, having been drawn by lot by the Chairman, was called upon to vote first.

In favour: Angola, Australia, Austria, Bangladesh, Barbados, Brazil, Bulgaria, Cameroon, Canada, Chile, China, Colombia, Costa Rica, Côte d'Ivoire, Cuba, Cyprus, Ecuador, Finland, France, Gabon, Germany, Hungary, India, Indonesia, Italy, Japan, Kenya, Lesotho, Malawi, Malaysia, Mauritania, Mauritius, Mexico, Netherlands, Nigeria, Pakistan, Peru, Poland, Republic of Korea, Romania, Russian Federation, Sri Lanka, Togo, Tunisia, United Kingdom of Great Britain and Northern Ireland, United States of America, Uruguay, Venezuela.

Against: Iran (Islamic Republic of), Syrian Arab Republic.

Abstaining: Libyan Arab Jamahiriya, Sudan.

62. Draft resolution E/CN.4/1994/L.2 was adopted by 48 votes to 2, with 2 abstentions.

Draft resolution on the situation in occupied Palestine (E/CN.4/1994/L.6)

63. Mr. LEMINE (Mauritania), introducing the draft resolution on behalf of its sponsors, reviewed its main points and noted that it had taken into consideration the recent developments in the Middle East peace process. It was to be hoped that the draft resolution would enjoy the full support of the Commission.

64. At the request of the representative of the United States of America, a vote was taken by roll-call.

65. Mauritius, having been drawn by lot by the Chairman, was called upon to vote first.

In favour: Angola, Bangladesh, Brazil, Cameroon, Chile, China, Colombia, Costa Rica, Cuba, Cyprus, Gabon, India, Indonesia, Iran (Islamic Republic of), Lesotho, Malaysia, Mauritania, Mexico, Nigeria, Pakistan, Republic of Korea, Sri Lanka, Sudan, Syrian Arab Republic, Tunisia, Venezuela.

Against: United States of America.

Abstaining: Australia, Austria, Barbados, Bulgaria, Canada, Cote d'Ivoire, Ecuador, Finland, France, Germany, Hungary, Italy, Japan, Kenya, Libyan Arab Jamahiriya, Malawi, Mauritius, Netherlands, Peru, Poland, Romania, Russian Federation, Togo, United Kingdom of Great Britain and Northern Ireland, Uruguay.

66. Draft resolution E/CN.4/1994/L.6 was adopted by 26 votes to 1, with 25 abstentions.

Draft resolution on the question of Western Sahara (E/CN.4/1994/L.7)

67. The CHAIRMAN, introducing the draft resolution, said that it had met with the approval of all the parties concerned. He took it, therefore, that the Commission wished to adopt it without a vote.

68. It was so decided.

Draft resolution on the use of mercenaries as a means of impeding the exercise of the right of peoples to self-determination (E/CN.4/1994/L.9)

69. Mr. GUAM (Nigeria), introducing the draft resolution on behalf of its sponsors, which had been joined by the delegations of Peru and Tunisia and the observers for Iraq, Myanmar and Zimbabwe, said that the phenomenon of mercenaries still affected many developing countries, as could be seen in southern Africa, particularly Angola. Inasmuch as the draft resolution was basically the same as that adopted by consensus at the forty-ninth session, he hoped that it could be adopted without a vote.

70. Mr. LEBAKINE (Acting Secretary of the Commission), said that in accordance with rule 28 of the rules of procedure of the functional commissions of the Economic and Social Council, he wished to inform the Commission that draft resolution E/CN.4/1994/L.7 was considered to be within the scope of perennial activities and that resources would therefore be provided from within existing provisions for the Economic and Social Council mandates under section 21 (Human Rights) of the approved programme budget for the biennium 1994-1995.

71. The CHAIRMAN said that the representative of the United Kingdom of Great Britain and Northern Ireland had requested that the draft resolution be put to the vote.

72. The draft resolution was adopted by 35 votes to 1, with 15 abstentions.

73. Mr. CROOK (United States of America), said that his delegation had long considered it pointless to address the subject of mercenaries in the Commission. Every year, many proposals were made for the creation of new rapporteurs and mechanisms to examine numerous important human rights questions, despite the fact that there were not even enough resources to fund the existing mechanisms, let alone new ones. While aware of the importance that some delegations attached to the issue, his Government wondered whether the value returned was sufficient to justify the continued expenditure of the Commission's scanty resources.

74. Mr. DAUFRESNE de la CHEVALERIE (France) said that his Government had welcomed the recent developments in the Middle East, particularly the signature of the Declaration of Principles on Interim Self-Government Arrangements in September 1993. It therefore wholeheartedly endorsed draft resolution E/CN.4/1994/L.2. Nevertheless, his delegation had chosen not to sponsor the draft resolution because it failed to refer to Security Council

resolution 425 (1978), which stated that, within the framework of a settlement in the Middle East, Lebanon should be able to recover its sovereignty and independence within its internationally recognized borders. The principles set forth in that resolution had formed part of the Madrid negotiations; they must not be overlooked at a crucial moment in the peace process.

75. Mr. PEREZ NOVOA (Cuba) said that his delegation had voted in favour of draft resolution E/CN.4/1994/L.2 because it reflected the spirit of peace to which his country aspired. It was unfortunate, however, that the resolution did not mention certain elements that were essential to a comprehensive, just and lasting peace in the Middle East such as the return to Syria of the occupied Golan.

76. Mr. KHOURY (Syrian Arab Republic) said that his Government had always been committed to the achievement of a just and lasting peace in the Middle East, in accordance with the pertinent United Nations resolutions and the Madrid agreements. Consequently, it could not accept a resolution on that issue which did not make a specific reference to Security Council resolution 425 (1978) concerning Lebanon, which had taken part in the Madrid talks and the subsequent bilateral negotiations.

77. Resolution E/CN.4/1994/L.2 also failed to mention the violations of human rights of Arab citizens in the occupied territories and the fact that such violations fell within the jurisdiction of the Geneva Conventions.

78. His delegation's vote in favour of draft resolution E/CN.4/1994/L.6 was not meant to indicate any particular position with regard to the Declaration of Principles on Interim Self-Government Arrangements.

79. Mr. NASSERI (Islamic Republic of Iran) said that his delegation had voted in favour of resolution E/CN.4/1994/L.6. However, had each individual paragraph been put to the vote, it would have voted against the last preambular paragraph.

80. His delegation had voted against draft resolution E/CN.4/1994/L.2. That text was allegedly about self-determination but was basically, in fact, concerned with the political issue of the peace process. In that connection, even the most pragmatic supporters of the Palestinian cause could not have envisaged the extent to which justice would be buried in the fiasco of a ceremony that had taken place on 13 September 1993.

81. In the Declaration of Principles agreed upon, the Palestinians had been given a small village to administer as a token and had been promised self-rule in the Gaza Strip, where Israel was suffocated by the Palestinian heroes of the intifadah. Security outside the borders and foreign relations were reserved for Israel. It was difficult to see how the Palestinian people could have its own State when foreign relations and defence - the two major pillars of statehood - were in Israeli hands. He wondered whether the Palestinians would even be able to continue to represent themselves in international forums.

82. The great Palestinian cause seemed to have been reduced to an issue of human rights. Even worse, all the years of sacrifice and struggle seemed to have brought the Palestinians the most paltry of results - minor practical arrangements agreed upon during the Israeli/Palestinian negotiations with regard to security controls at the borders. That was surrender not peace, submission to injustice, degrading treatment, aggression and torture. However, history repeated itself in cycles and the Palestinian cause would rise again.

83. Ms. PARK (Canada) said that the language of draft resolution E/CN.4/1994/L.6 had been a significant improvement on its 1993 counterpart, with its positive reference to the Middle East peace process and to the Declaration of Principles. Nevertheless, it still contained language such that her delegation had had to abstain, namely, the reference to the inalienable right of the Palestinian people to self-determination without external interference and to the establishment of an independent State on their national soil.

84. Her Government fully supported the right of the Palestinian people to self-determination in the context of the peace negotiations and the right of Israel and other States to live in peace within secure and recognized borders. It was not, however, prepared to endorse language intended to prejudge the outcome of the peace negotiations.

85. Mr. FERNANDEZ de CORDOBA (Ecuador) said that his Government supported the Middle East peace process. It was convinced that there must be an end to war and violence as a means of solving the problems of mankind. Moreover, in accordance with one of the basic principles of international law, it could not recognize the right to any territory acquired by force.

86. Ms. MAKHEKHE (Lesotho) said that her delegation had voted for draft resolution E/CN.4/1994/L.2 because it recognized the positive contribution that the peace process was making to the Middle East question. That resolution was not necessarily incompatible with the other resolutions that had just been adopted by the Commission. Although the peace process was important, emphasis should also be placed on Security Council resolutions, international law and the relevant provisions of the Geneva Conventions.

87. Mr. SAHLOUL (Sudan) said that his delegation had abstained from voting on draft resolution E/CN.4/1994/L.2 because it did not refer to violations of human rights occurring in the occupied Arab territories and did not express the hope that such violations would cease. It also failed to mention Security Council resolution 425 (1978). His delegation's abstention was thus a means of expressing solidarity with the Lebanese people.

88. Mr. LEMINE (Mauritania) said that his delegation had voted in favour of draft resolution E/CN.4/1994/L.2 despite the fact that it made no mention of Security Council resolution 425 (1978). Lebanon was involved in the conflict in the Middle East and part of its territory was occupied. That situation thus deserved a mention in the resolution.

89. Mr. HAFYANA (Libyan Arab Jamahiriya) said that he wished to reiterate the position his delegation had expressed in explaining its decision to abstain in the voting on the resolution concerning the Declaration of Principles. The reasons underlying a particular stance of his delegation were not necessarily the same as those given by other delegations. His delegation had exercised its legitimate right to explain its vote and had remained within the limit of the rules in doing so.

ADVERSE CONSEQUENCES FOR THE ENJOYMENT OF HUMAN RIGHTS OF POLITICAL, MILITARY, ECONOMIC AND OTHER FORMS OF ASSISTANCE GIVEN TO THE RACIST AND COLONIALIST REGIME IN SOUTH AFRICA (agenda item 6) (continued) (E/CN.4/1994/L.15)

Draft resolution on monitoring and assisting the transition to democracy in South Africa (E/CN.4/1994/L.15)

90. Mr. GWAM (Nigeria), introducing the draft resolution on behalf of its sponsors, said that it reflected the positive changes taking place in South Africa as well as the obstacles to implementing democracy there.

91. The second preambular paragraph recalled Economic and Social Council resolution 1993/45 in which the Council had authorized the Sub-Commission to entrust the Special Rapporteur with the task of presenting annually a report on the transition to democracy in South Africa, while the third preambular paragraph took note of General Assembly resolution 48/1, adopted in October 1993 on the lifting of economic sanctions against South Africa.

92. The operative paragraphs dealt with the following issues: removal of all obstacles to the transition to democratic rule in South Africa; the need for the Government of South Africa to create an environment conducive to the realization of the entire range of individual rights; endorsement of the recommendations of the Special Rapporteur (E/CN.4/Sub.2/1993/11/Add.1); the need for the Special Rapporteur to undertake further missions to South Africa; and the need for the Centre for Human Rights to make available, on request, its programme of advisory services and technical assistance to the democratically elected Government of South Africa.

93. Lastly, the resolution proposed that the agenda item hitherto entitled "Adverse consequences for the enjoyment of human rights of political, military, economic and other forms of assistance given to the racist and colonialist regime in South Africa" should henceforth be entitled "Monitoring and assisting the transition to democracy in South Africa".

94. Mr. LEBAKINE (Acting Secretary of the Commission) said that the observers for El Salvador, Myanmar and Viet Nam had become sponsors of the draft resolution. Since the draft resolution was considered to be within the scope of perennial activities, resources would be provided from within existing provisions for the Economic and Social Council mandates under Section 21 (Human Rights) of the approved programme budget for the 1994-1995 biennium.

95. Draft resolution E/CN.4/1994/L.15 was adopted without a vote.

IMPLEMENTATION OF THE PROGRAMME OF ACTION FOR THE SECOND DECADE TO COMBAT RACISM AND RACIAL DISCRIMINATION (agenda item 14) (continued) (E/CN.4/1994/L.13)

Draft resolution on implementation of the Programme of Action for the Second Decade to combat racism and racial discrimination (E/CN.4/1994/L.13)

96. Mr. DEGUENE KA (Observer for Senegal), introducing the draft resolution on behalf of the African Group and its 33 other sponsors, said that the combat against racism clearly included the enactment of laws and ratification of treaties against racial discrimination. Yet, above all, it involved creating the conditions that would permit groups subject to discrimination to emerge from their isolation.

97. By its resolution 48/91 of December 1993, the General Assembly had decided to launch the Third Decade to Combat Racism and Racial Discrimination. The purpose of draft resolution E/CN.4/1994/L.13 was to set up adequate mechanisms for the coordination, monitoring and follow-up of the Programme of Action for the Third Decade. It reaffirmed the obligation of States under the United Nations Charter to promote universal respect for, and observance of, human rights and fundamental freedoms. It welcomed the attention given to the Programme of Action by the World Conference on Human Rights and the decision by the Economic and Social Council to appoint a special rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance.

98. The draft resolution requested that priority should be accorded to the activities of the Programme of Action for the Third Decade, to the total elimination of apartheid and to support for the transition to democracy in South Africa. It also urged the Secretary-General to pay particular attention to the situation of migrant workers and members of their families and to indigenous peoples.

99. It invited Governments, United Nations bodies and specialized agencies and non-governmental organizations to participate fully in the Third Decade to Combat Racism and Racial Discrimination and appealed to them to contribute generously to the Trust Fund for the Programme for the Decade.

100. It invited the Secretary-General to coordinate all the activities to be carried out within the framework of the Third Decade. It decided to establish a focal point within the United Nations Centre for Human Rights to review information concerning those activities and to formulate recommendations, and it requested the Secretary-General to submit to the Commission on Human Rights a detailed annual report on activities to combat racism and racial discrimination.

101. He hoped that the draft resolution would be adopted by consensus.

102. Mr. LEBAKINE (Acting Secretary of the Commission) said that the delegations of France, the Libyan Arab Jamahiriya, Peru and Sri Lanka and the observers for Algeria, Denmark, Jordan, Nicaragua, Norway and Spain had become sponsors of the draft resolution.

103. The draft resolution was considered to be within the scope of perennial activities. Resources would therefore be provided from within existing provisions for the Economic and Social Council mandates under Section 21 (Human Rights) of the approved programme budget for the 1994-1995 biennium.

104. Draft resolution E/CN.4/1994/L.13 was adopted without a vote.

The meeting rose at 12.55 p.m.